



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2004

Mr. Robert R. Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606-1952

OR2004-10798

Dear Mr. Ray:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 215613.

The City of Longview (the "city") received a request for a particular offense report, including a related video tape recording. You claim that portions of the requested information are excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code 552.304 (providing that member of public may submit comments stating why information should or should not be released).

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the information you seek to withhold pertains to a pending criminal proceeding. Based on this representation, we agree that section 552.108(a)(1) is applicable to the information you have marked. *See Houston Chronicle Publ'g Co. v. City*

of Houston, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, we note that some of the information you have marked constitutes basic information about the arrest at issue. Section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*, including the age of the arrested person, the offense charged, the date, time, and place of the crime and arrest, and a detailed description of the offense. *See Houston Chronicle*, 531 S.W.2d at 185. Thus, with the exception of the basic front page offense and arrest information, you may withhold the information you have marked based on section 552.108(a)(1).¹ We note that you have the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

You also contend that other submitted information must be withheld under section 552.130 of the Government Code. This section excepts from disclosure information that "relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." We have reviewed the submitted records and agree that the remaining information you have marked must be withheld under section 552.130. However, you have marked a small amount of information to which section 552.130 is not applicable and that may not be withheld on that basis. We have marked the information that must be released.

In summary, with the exception of basic information, which must be released, the city may withhold the information it claims is excepted from disclosure under section 552.108(a)(1). Except where noted otherwise, the remaining Texas motor vehicle record information and driver's license numbers that the city has marked must be withheld under section 552.130. The remaining submitted information must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full

¹Because we are able to resolve this under section 552.108, we do not address your other arguments for exception regarding this information, except to note that basic information may not be withheld from public disclosure under section 552.103. Open Records Decision No. 362 (1983).

benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

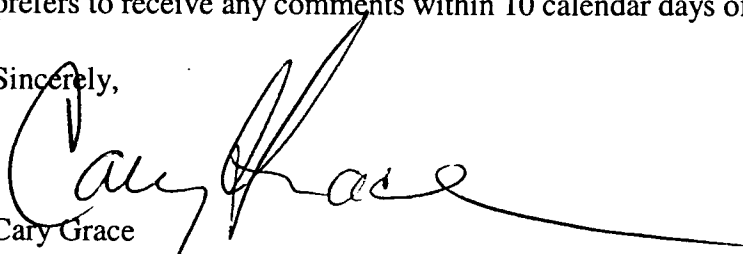
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cary Grace
Assistant Attorney General
Open Records Division

ECG/jev

Ref: ID# 215613

Enc. Submitted documents

c: Ms. Christina Jeter
1400 HG Mosley, Apt. 2406
Longview, Texas 75604
(w/o enclosures)